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OFFICE OF PETITIONS

In re Application of :
Jonathan M. Katz et al :
Application No. 10/763,964 : **DECISION ON PETITION**
Filed: January 23, 2004 :
Attorney Docket No. VIT.P0030 :

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before April 30, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 29, 2007. Accordingly, the date of abandonment of this application is May 1, 2007. A Notice of Abandonment was mailed on May 25, 2007.


The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,400 and the publication fee of \$300, (2) the petition fee of \$1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

The petition to revive has the box checked stating that this application is "other than small entity," and submits the large entity petition fee of \$1,500. However, the fee submitted for the issue fee is \$700, which is the fee for a small entity. As a proper notification of loss of entitlement to small entity status has not been submitted in accordance with 37 CFR 1.27(g)(2) and in view of the conflicting fees submitted herein, the \$1,500 petition fee submitted is considered to have been overpaid. Accordingly, petitioner's deposit account has been refunded \$750 (half of the \$1,500 petition fee submitted). If, in fact, this application was no longer entitled to small entity status at the

time of payment of the issue and petition fees, petitioner should promptly file a petition under 37 CFR 1.28(c) to accept the fee deficiency in the issue and petition fees submitted on June 4, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

A handwritten signature in cursive script, reading "Frances Hicks".

Frances Hicks
Petitions Examiner
Office of Petitions